

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MASOUMEH MOTEVALLI
ALAMOUTI, individually and as
successor-in-interest to Masoud Rahmati,
deceased; and MOSHEN RAHMATI,
individually,

Plaintiffs,

v.

COUNTY OF LOS ANGELES;
YVONNE PULLEN; RYAN GARCIA;
BRISEIDA NOCHEZ; RENE
AGUILAR ORNELAS; JOEL LEYVA;
ANDREW WISE; JASON GONZALEZ;
BART MARSHALL; MICHAEL
MAYBEE; and OLUWASANMI
OGUNJUMO,

Defendants.

Case No. 2:24-cv-05560-MWC-JC

**ORDER RE: ORDER TO SHOW
CAUSE (DKT. 37)**

ORDER

Before the Court is Plaintiffs' ex parte application to discharge or reconsider the Court's order to show cause ("OSC") for lack of prosecution. Dkt. # 37 ("*App.*"). On May 2, 2025, the Court issued the OSC as to the newly added individual Defendants in Plaintiffs' first amended complaint ("FAC") and required a response by May 9, 2025. Dkt. # 33. The Court, in its order granting leave to file the FAC, instructed the parties that the Defendants' (which includes Defendant County of Los Angeles) responsive pleadings would be due twenty-one (21) days from service of the FAC. Dkt. # 29 ("*Order*"). No proofs of service have been filed since the filing of the FAC. The Court continued the OSC to May 19, 2025 following correspondence between Plaintiffs' counsel and the Court's deputy clerk. Plaintiffs now move to discharge the order on the grounds that, under Federal Rule of Civil Procedure 4(m), Plaintiffs have 90 days following the filing of the FAC to serve the FAC and summons upon any defendant named for the first time in the FAC. *See App.*

Plaintiffs are correct that they have 90-days to serve the newly added defendants. Fed. R. Civ. P. 4 (m). Accordingly, the Court discharges the pending OSC. However, the Court notes that Defendant County of Los Angeles, a named defendant in the original complaint, had not timely filed a responsive pleading to the FAC at the time the initial OSC was issued. *See Bolden v. City of Topeka, Kan.*, 441 F.3d 1129, 1148 (10th Cir. 2006) (stating Rule 4(m)'s time limit "is not restarted by the filing of an amended complaint except as to those defendants newly added in the amended complaint."); *Order* at 2 ("Defendants' responsive pleading shall be due twenty-one (21) days from service of the First Amended Complaint."). In other words, although the Court only listed the individual Defendants in its OSC, Plaintiffs were not actively prosecuting the case at the time the initial OSC was issued. Defendant County of Los Angeles has since filed its responsive pleading to the FAC. Dkt. # 35.

IT IS SO ORDERED.

Dated: May 15, 2025



Hon. Michelle Williams Court
United States District Judge